

ORDINANCE NO. 239, SERIES 2017

AN ORDINANCE CHANGING THE ZONING FROM R-4 RESIDENTIAL SINGLE FAMILY AND C-2 COMMERCIAL TO CM COMMERCIAL/ MANUFACTURING AND CHANGING THE FORM DISTRICT FROM NEIGHBORHOOD TO SUBURBAN MARKETPLACE CORRIDOR ON PROPERTY LOCATED AT 11905 DIXIE HIGHWAY CONTAINING 2.2 ACRES AND BEING IN LOUISVILLE METRO (CASE NO. 17ZONE1022) (AS AMENDED).

SPONSORED BY: COUNCILWOMAN MADONNA FLOOD

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning Commission and the recommendations of the Planning Commission and its staff as set out in the minutes and records of the Planning Commission in Case No. 17ZONE1022; and

WHEREAS, the Council concurs in and adopts the findings of the Planning Commission for the zoning changes and form district changes in Case No. 17ZONE1022 and approves and accepts the recommendations of the Planning Commission as set out in said minutes and records;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: That the zoning of the property located at 11905 Dixie Highway containing 2.2 acres and being in Louisville Metro, as more particularly described in the minutes and records of the Planning Commission in Case No. 17ZONE1022, is hereby changed from R-4 Residential Single Family and C-2 Commercial to CM Commercial/Manufacturing and the form district of the aforesaid property is hereby changed from Neighborhood to Suburban Marketplace Corridor; provided, however, said property shall be subject to the binding elements as set forth in the minutes of the

Planning Commission in Case No. 17ZONE1022, and additional binding elements as follows:

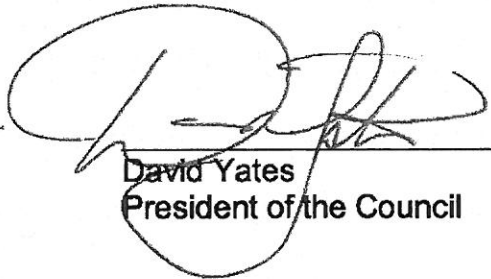
11. There shall be no storage of coal ash/fly ash on the premises.

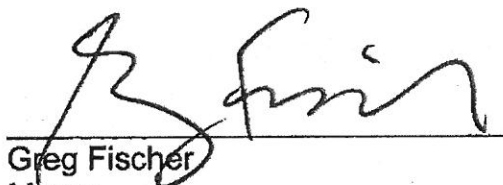
12. The sidewalks along E. Orell Road shall be extended to the Orell Road intersection.

13. Any change of use or change to the approved development plan shall require Metro Council review and approval.

SECTION II: This Ordinance shall take effect upon its passage and approval.


H. Stephen Ott
Metro Council Clerk


David Yates
President of the Council


Greg Fischer
Mayor

1/10/18
Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
December 14, 2017

By: 

O-411-17 with amendment to be made on the Council floor on 12-14-17 (PW)

Binding Elements
Case No. 18DEVPLAN1123

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 2, 2017 Planning Commission hearing.
10. The subject property shall only be used for those uses allowed in the C-M zoning district that are otherwise allowed in the C-2 zoning district and for "Warehouse, storage" but for no other use permitted in the M-1 zoning district. Any amendment to this binding element shall require approval from the Louisville Metro Planning Commission and from the Louisville Metro Council.